

To provide relief to State and local governments from Federal regulation.

JANUARY 7, 1997

A BILL

To provide relief to State and local governments from Federal regulation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Unfunded Federal
4 Mandates Relief Act of 1997”.

5 FINDINGS AND PURPOSE

6 SEC. 2. (a) The Congress finds and declares that—

(1) Federal regulation of State and local governments has become increasingly extensive and intrusive in recent years;

(3) such excessive fiscal burdens have weakened
the foundation of the Federal system of government;
and

(4) there is a lack of adequate fiscal resources to carry out necessary Federal regulation of State and local governments in order to enable such governments to comply with intergovernmental regulations currently in effect.

(b) Therefore, it is the purpose of this Act to establish procedures to assure that the Federal Government pays the total amount of additional direct costs incurred by State and local governments in complying with any intergovernmental regulation.

18 SEC. 3. For purposes of this Act, the term—

(1) “additional direct costs” means the amount of costs incurred by a State or local government solely in complying with an intergovernmental regulation promulgated pursuant to a Federal law concerning a particular activity which is in excess of the amount that such State or local government would be required to expend in carrying out such activity in the absence of such law, except that such term

1 does not include any amount which a State or local
2 government is required by law to contribute as a
3 non-Federal share under a Federal assistance pro-
4 gram;

5 (2) “Director” means the Director of the Office
6 of Management and Budget;

7 (3) “Federal agency” has the meaning given to
8 the term “executive agency” in section 6501(3) of
9 title 31, United States Code;

10 (4) “Federal assistance” means any assistance
11 provided by a Federal agency to State and local gov-
12 ernments or other recipients, in the form of grants,
13 loans, loan guarantees, property, cooperative agree-
14 ments, or technical assistance, except that such term
15 does not include direct cash assistance to individ-
16 uals, contracts for the procurement of goods or serv-
17 ices for the United States, or insurance;

18 (5) “intergovernmental regulation” means a
19 regulation promulgated by a Federal agency that re-
20 quires a State or local government to take certain
21 actions or requires a State or local government to
22 comply with certain specified conditions in order to
23 receive or continue to receive Federal assistance and
24 which requires the termination or reduction of such

1 assistance if such government fails to comply with
2 such conditions;

3 (6) “local government” has the same meaning
4 as in section 6501(6) of title 31, United States
5 Code;

6 (7) “significant law” means any Federal law
7 which is likely to result in additional direct costs to
8 State and local governments; and

9 (8) “State” means each of the several States,
10 the District of Columbia, Guam, the Commonwealth
11 of Puerto Rico, the Commonwealth of the Northern
12 Mariana Islands, the Virgin Islands, American
13 Samoa, and the Trust Territory of the Pacific Is-
14 lands.

15 TITLE I—REVIEW OF INTERGOVERNMENTAL
16 REGULATIONS

17 REPORT REQUIRED

18 SEC. 101. (a) Not later than thirty days after the
19 date on which the President transmits a budget for a fiscal
20 year to the Congress pursuant to section 1105 of title 31,
21 United States Code, the President shall submit to the
22 Congress a report specifying and evaluating the economic
23 costs, noneconomic costs, and additional direct costs which

1 have been incurred or which will be incurred by State gov-
2 ernments and local governments in complying with inter-
3 governmental regulations during the most recently com-
4 pleted fiscal year, the fiscal year in progress, and the first
5 two fiscal years immediately succeeding the fiscal year in
6 progress.

7 (b) Each report required under subsection (a) shall
8 include—

9 (1) a list of each intergovernmental regulation
10 in effect during each fiscal year for which the report
11 is made and a citation of statutory and administra-
12 tive authority for each such intergovernmental regu-
13 lation;

14 (2) an estimate, for each such intergovern-
15 mental regulation, of—

16 (A) the total amount of economic costs,
17 noneconomic costs, and additional direct costs
18 that have been incurred or will be incurred in
19 each such fiscal year by the government of each
20 State and all local governments in such State in
21 complying with such regulation in each such fis-
22 cal year; and

23 (B) the ratio (stated as a percentage)
24 which the total amount of additional direct

1 costs that have been incurred or will be in-
2 curred by all local governments in a State in
3 complying with such regulation in each such fis-
4 cal year bears to the total amount of additional
5 direct costs that have been incurred or will be
6 incurred by the government of such State and
7 all local governments in such State in comply-
8 ing with such regulation in such fiscal year;

9 (3) an estimate, for each such regulation, of the
10 economic and noneconomic benefits that will be pro-
11 vided in each such fiscal year to each State govern-
12 ment and all local governments in such State as a
13 result of compliance with such regulation during
14 each such fiscal year;

15 (4) recommendations for changes in laws and
16 regulations that will reduce the costs specified pur-
17 suant to paragraph (2), or that will achieve a more
18 favorable balance between the benefits specified pur-
19 suant to paragraph (3) and the costs specified pur-
20 suant to paragraph (2); and

21 (5) proposals for legislation, and a statement of
22 planned administrative actions, to implement the
23 recommendations specified pursuant to paragraph
24 (4).

1 PROCEDURES FOR PREPARATION OF REPORT

2 SEC. 102. (a) The President may delegate to the Di-
3 rector or to the head of any other Federal agency the re-
4 sponsibility for preparing the annual report required by
5 section 101.

6 (b)(1) In carrying out the provisions of this title, the
7 President, the Director, or the head of a Federal agency
8 to which a delegation is made under subsection (a), shall
9 prescribe standards to be used by Federal agencies in esti-
10 mating the costs of compliance with, and the benefits pro-
11 vided by, intergovernmental regulations administered by
12 such agencies.

13 (2) The President, the Director, or the head of a Fed-
14 eral agency to which a delegation is made under subsection
15 (a) shall prescribe the standards required under para-
16 graph (1)—

17 (A) after consultation with State and local gov-
18 ernments and the Comptroller General of the United
19 States; and

20 (B) after providing public notice and an oppor-
21 tunity for comment in accordance with section 553
22 of title 5, United States Code.

23 (3) Standards prescribed under paragraph (1) may
24 be revised from time to time to reflect changes in relevant

1 economic and social circumstances and advances in perti-
2 nent branches of knowledge.

3 (c) The standards prescribed under subsection (b)
4 shall provide, to the extent possible, for—

5 (1) uniform categories of costs of compliance
6 with, and benefits provided by, intergovernmental
7 regulations;

8 (2) methods to be used by the President, and
9 by Federal agencies, in estimating the additional di-
10 rect costs that will be incurred by State and local
11 governments in complying with each intergovern-
12 mental regulation, including methods to estimate the
13 amount of such costs that will be incurred for each
14 fiscal year in which each such regulation is in effect;

15 (3) methods to be used by Federal agencies in
16 compiling the information required to be submitted
17 under subsection (d), which shall be designed to—

18 (A) minimize the costs that will be in-
19 curred by the State and local governments and
20 the Federal assistance recipients from which
21 such information will be collected; and

22 (B) ensure the collection of reasonably ac-
23 curate information in a form that will be useful
24 to States in complying with section 204(c);

1 (4) methods for preventing disclosure of infor-
2 mation about individuals or businesses the confiden-
3 tiality of which is protected under Federal law;

4 (5) procedures to be followed by Federal agen-
5 cies in reporting the information required to be sub-
6 mitted under subsection (d); and

7 (6) such other procedures and guidelines as
8 may be necessary for the implementation of this
9 title.

10 (d) Each year, at a time prescribed by the President,
11 the Director, or the head of the Federal agency to which
12 a delegation is made under subsection (a), the head of
13 each Federal agency which administered any intergovern-
14 mental regulation during a fiscal year for which a report
15 is required under section 101, shall prepare and submit
16 to the President, the Director, or such agency head, a re-
17 port setting forth, for each such regulation, the informa-
18 tion required to be included for such regulation in the re-
19 port required under section 101.

20 TITLE II—COMPENSATION OF STATE AND
21 LOCAL GOVERNMENTS FOR ADDITIONAL
22 DIRECT COSTS

23 COMPENSATION REQUIRED

24 SEC. 201. (a) A Federal agency or a court of the
25 United States shall not require State governments or local

1 governments to comply, in any fiscal year, with any inter-
2 governmental regulation unless provisions of law have
3 been enacted which provide a sufficient amount of funds
4 for such fiscal year to reimburse such governments for the
5 total amount of additional direct costs that will be in-
6 curred by such governments in complying with such regu-
7 lation during such fiscal year.

8 (b) For purposes of this section, the total amount of
9 additional direct costs that will be incurred by State gov-
10 ernments and local governments in complying with an
11 intergovernmental regulation in any fiscal year shall be the
12 total amount of such costs for such regulation estimated
13 by the Director of the Congressional Budget Office for
14 such fiscal year in the report required under section 202
15 for such fiscal year.

16 REPORT BY THE DIRECTOR OF THE CONGRESSIONAL
17 BUDGET OFFICE

18 SEC. 202. (a) For each fiscal year in which an inter-
19 governmental regulation promulgated pursuant to a sig-
20 nificant law will be in effect, the Director of the Congres-
21 sional Budget Office shall prepare and transmit to the
22 President and the Congress a report specifying, for such
23 fiscal year and the fiscal year succeeding such fiscal year,
24 an estimate of the total amount of additional direct costs

1 that will be incurred by State governments and local gov-
2 ernments in complying with such regulation in each such
3 fiscal year.

4 (b) In preparing each report required by subsection
5 (a), the Director of the Congressional Budget Office shall
6 consider the estimate of additional direct costs for a fiscal
7 year resulting from compliance with an intergovernmental
8 regulation which are specified in the report submitted by
9 the President under title I during the fiscal year preceding
10 such fiscal year.

11 (c) The Director of the Congressional Budget Office
12 shall transmit each report required by subsection (a) for
13 a fiscal year to the President and the Congress by Septem-
14 ber 1 of the fiscal year preceding such fiscal year.

15 IMPLEMENTATION

16 SEC. 203. For each fiscal year in which an intergov-
17 ernmental regulation promulgated pursuant to a signifi-
18 cant law will be in effect, the chairman of the committees
19 of the Senate and of the House of Representatives having
20 legislative jurisdiction over such significant law shall pro-
21 pose, to an appropriate bill or resolution providing funds
22 for such fiscal year, an amendment containing provisions
23 to appropriate funds to reimburse State governments and
24 local governments for the additional direct costs incurred
25 in complying with such regulation. The amount of funds
26 proposed to be appropriated by such amendment shall be

3 PROCEDURES FOR REIMBURSEMENTS TO STATE AND
4 LOCAL GOVERNMENTS

(2) A State government which receives payments under this section for reimbursement for additional direct costs incurred in complying with an intergovernmental regulation in any fiscal year shall pay to each local government in the State the amount determined pursuant to this section to reimburse such local government for the additional direct costs incurred by such local government in complying with such regulation in such fiscal year.

(b) The total amount to be paid to a State to reimburse the government of the State and local governments in the State for additional direct costs incurred by such governments in complying with an intergovernmental regulation in any fiscal year shall be an amount which bears the same ratio to the total amount for reimbursement of

1 additional direct costs for all State governments and local
2 governments described in section 201(a) with respect to
3 such regulation for such fiscal year as the total amount
4 of additional direct costs with respect to such regulation
5 which is specified in the report submitted by the President
6 under title I for such fiscal year for such State government
7 and local governments in such State for such fiscal year
8 bears to the sum of the total amounts of additional direct
9 costs with respect to such regulation which are specified
10 in such report for all State governments and all local gov-
11 ernments for such fiscal year.

12 (c)(1) The total amount to be paid by a State govern-
13 ment to local governments in such State to reimburse such
14 governments for additional direct costs incurred by such
15 governments in complying with an intergovernmental reg-
16 ulation in any fiscal year shall be the amount which is
17 equal to the product of the amount paid to the State under
18 subsection (b) for such fiscal year multiplied by the ratio
19 determined by the President for such State with respect
20 to such regulation for such fiscal year pursuant to section
21 101(b)(2)(B).

22 (2)(A) A State government which receives payments
23 under this section to reimburse local governments in the

1 State for the additional direct costs incurred by such gov-
2 ernments in complying with an intergovernmental regula-
3 tion in any fiscal year shall pay to each such local govern-
4 ment an amount equal to the product of—

5 (i) the total amount determined under para-
6 graph (1) with respect to such regulation for such
7 fiscal year, multiplied by

8 (ii) the ratio (stated as a percentage and esti-
9 mated by the State in accordance with subparagraph
10 (B)) that the total amount of additional direct costs
11 incurred by such local government in complying with
12 such regulation in such fiscal year bears to the total
13 amount of additional direct costs incurred by all
14 local governments in such State in complying with
15 such regulation in such fiscal year.

16 (B) Each State government which receives payments
17 under this section for any fiscal year shall provide by law
18 for the estimation of the amount of additional direct costs
19 incurred by each local government in such State in com-
20 plying with an intergovernmental regulation for which
21 such payments are received. In providing for the esti-
22 mation of such costs, the State shall establish procedures
23 and methods for the estimation of such costs which are

1 reasonably related to the actual additional direct costs in-
2 curred by such governments in complying with such regu-
3 lation in such fiscal year.

4 EFFECT OF SUBSEQUENT ENACTMENTS

5 SEC. 205. No law enacted after the date of enactment
6 of this title shall supersede the provisions of this title un-
7 less such law does so in specific terms, referring to this
8 title, and declares that such law supersedes the provisions
9 of this title.

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